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ANDERSON KILL & OLICK, P.C.

Attorneys and Counselors at Law

ONE GATEWAY CENTER, SUITE 1510 ■ NEWARK, NJ 07102

TELEPHONE: 973-642-5858 ■ FAX: 973-621-6361

www.andersonkill.com

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Steven J. Pudell, Esq.
SPudell@andersonkill.com
973-642-5877

January 12, 2012

By Facsimile (914) 390-4152

Hon. Kenneth M. Karas
Federal Building and United States Courthouse
300 Quarropas Street
White Plains, NY 10601-4150

Re: Deskovic v. City of Peekskill, et al., No. 07-CV-8150 (KMK)(GAY)
McGarr v. City of Peekskill, et al., No. 07-CV-9488 (KMK)(GAY)

Dear Judge Karas:

We represent Defendant and Third-Party Plaintiff City of Peekskill ("Peekskill") in the above-referenced actions. On January 10, 2012, we wrote to Your Honor requesting that Your Honor deny each of the Insurance Companies' requests to file motions to dismiss (a) Count III of Peekskill's Third Party Complaints and (b) Peekskill's demand for punitive damages.

In footnote 3 of our letter, we wrote that Westport was providing a defense under only one of the policies it sold to Peekskill. This was Westport's coverage position until last month when Westport agreed to provide a defense under a reservation of rights pursuant to North River Policy FTZ 503-086942-8 (Policy Period: 12/31/90-12/31/91). Westport continues to assert that it only has a limited duty to indemnify Peekskill – under the 1991 policy – and it is our understanding that it has reserved certain rights under the 1990 policy. The other insurance companies have contended that there is no duty to indemnify Peekskill, thereby putting Peekskill – despite its belief as to the viability of its defenses in the underlying matters – in the unfavorable position of not being able to seriously discuss settlement with underlying plaintiffs.

We appreciate the Court's attention to this matter. Peekskill continues to respectfully request that Your Honor deny each of the Insurance Companies' requests to file motions to dismiss Peekskill's viable demand for punitive damages and Count III of Peekskill's Third Party Complaints.

The Court will hold a pre-motion
conference on March 27, 2012, at 2:00
to address all would-be motions
related to Peekskill and its insurance
claims.

Respectfully submitted,

Steven J. Pudell (ma)

Steven J. Pudell

New York, NY ■ Newark, NJ ■ Philadelphia, PA ■ Stamford, CT ■ Ventura, CA ■ Washington, DC

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Anderson Kill & Olick, P.C.

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cc: (via email)
Peter Meisels, Esq. (peter.meisels@wilsonelser.com)
James Mitchell, Esq. (jmittell@stillmanfriedman.com)
Diane Houk, Esq. (dhouk@ecbalaw.com)
Debra Greenberger, Esq. (dgreenberger@ecbalaw.com)
Robert Delicate, Esq. (rdelicate@harwoodlloyd.com)
Vince Gelardi, Esq. (vg@vincentgelardi.com)
Nick Brustin, Esq. (nick@nbscivilrights.com)
Darcy Ibach (dibach@lbbslaw.com)
Stephanie A. Nashban (nashban@lbbslaw.com)
Patrick Walsh (pwalsh@hww-law.com)
Bradley Klein (bklein@hww-law.com)
Marianne May (Marianne.may@clydeco.us)
David Dolendi (david.dolendi@sedgwicklaw.com)
Jessika Moon (jessika.moon@sedgwicklaw.com)
Catalina Sugayan (catalina.sugayan@sedgwicklaw.com)
Thomas Martin (tmartin@putneylaw.com)
Karen Dixon (karen.dixon@mbtlaw.com)
Matthew B. Anderson (matthew.anderson@mendes.com)
Michael Buckley (michael.buckley@rivkin.com)
Anthony Gambardella (anthony.gambardella@rivkin.com)
Janet Ford (jford@wff-law.com)
Meryl Lieberman (mlieberman@traublieberman.com)
Sheryl Bruzzese (sbruzzese@traublieberman.com)